

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Sheila S. Lang,

Civil No. 08-5880 (DWF/JJK)

Plaintiff,

v.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

Michael J. Astrue,
Commissioner of Social Security,

Defendant.

Neut L. Strandemo, Esq., Strandemo, Sheridan & Dulas, counsel for Plaintiff.

Lonnie F. Bryan, Esq., Assistant United States Attorney, counsel for Defendant.

This matter is before the Court upon Defendant's objections to Magistrate Judge Jeffrey J. Keyes's Report and Recommendation dated August 20, 2009, recommending that: (1) Plaintiff's Motion for Summary Judgment be granted; (2) Defendant's Motion for Summary Judgment be denied; (3) the decision of the Commissioner be reversed and the Commissioner be directed to waive recovery of overpayment; and (4) this case be dismissed with prejudice.

The Court has conducted a *de novo* review of the record, including a review of the arguments and submissions of counsel, pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 72.2(b). The factual background for the above-entitled matter is clearly and precisely set forth in the Report and Recommendation and is incorporated by reference for purposes of Defendant's objections.

Based upon the *de novo* review of the record, including this Court's review of the credibility determinations by Magistrate Judge Jeffrey J. Keyes, as well as the arguments and submissions of the parties, and the Court being otherwise duly advised in the premises, the Court hereby enters the following:

ORDER

1. Defendant Commissioner of Social Security Michael J. Astrue's objections (Doc. No. 30) to Magistrate Judge Jeffrey J. Keyes's Report and Recommendation dated August 20, 2009, are **DENIED**.

2. Magistrate Judge Jeffrey J. Keyes's Report and Recommendation dated August 20, 2009 (Doc. No. 22), is **ADOPTED**.

3. Plaintiff's Motion for Summary Judgment (Doc. No. 14), is **GRANTED**;

4. Defendant's Motion for Summary Judgment (Doc. No. 17), is **DENIED**;

5. The decision of the Commissioner is **REVERSED AND THE COMMISSIONER BE DIRECTED TO WAIVE RECOVERY OF OVERPAYMENT**; and

6. This case is **DISMISSED WITH PREJUDICE**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: November 3, 2009

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge